

IDAPA 37.03.09
Negotiated Rule Making
July 13, 2006

Negotiated Rule Making commenced on Thursday, July 13, 2006, at 12 PM MDT. This meeting was conducted using the University of Idaho's teleconferencing system, and stakeholders participated from locations in Twin Falls (three participants), Coeur d'Alene (two participants), Idaho Falls (three participants), and Boise (eleven participants). The complete meeting was recorded, and is summarized below.

The Harbor Island Case Study and Discussion. Mr. Brett McCarty discussed the issue of well sealing and set back from septic tanks at Harbor Island. Mr. McCarty present information that demonstrated a 100-ft vertical setback from source using sealing to prevent contamination that might fulfill the intention of the 100-ft horizontal setback minimums (to protect groundwater from contamination from surface sources).

- A summary of recommendations raised by various speaker in response to Mr. McCarty's presentation:
 - Recommend IDWR rule specifically cite setbacks of other entities in rules:
 - Sewer/Septic
 - Ponds, ditches, contaminant sources or potential contamination
 - Property lines
 - Proximity to other wells
 - Other relevant rules must also be identified
 - Rule should offer vertical distances in lieu horizontal property and well interference* perhaps covering all setback issues through vertical sealing and waiver process (* Need to have further discussion relating to other impacts of wells that are too close together resulting in physical damage)
 - It is the home owner's responsibility to know where their septic systems are and the drillers responsibility to obtain that information from the homeowner.
 - May need a process to deal with after the fact discoveries of septic systems (for systems that aren't accurately disclosed in existing records). This may not be necessary with adequate seals.
 - Rule currently has provision for waiver by director of IDWR (prior to action) but creates potential conflicts with other Agency rules. Need to resolve so the system is more consistent across agencies
 - There should be some mechanism to deal with discoveries of septic systems after wells are drilled so that the most cost-effective and resource protective actions are taken. Propose possibility for waiver after the fact but it would require
 - A Memorandum of Understanding regarding setbacks should be developed between IDWR, DHDs, and Idaho Department of Environmental Quality.
 - Health Dept (or IDWR) assists in siting wells by providing data on sewer/septic locations (RULE vs. MOU)
 - Provide locating data online
 - GPS Layer for well driller locating system
 - Provide onsite evaluation (if data sources are not adequately descriptive or of questionable accuracy or discernability)
- On behalf of the drilling community, Mr. McCarty, representing contractors and the Idaho Ground Water Association (IGWA), volunteered to develop a proposed revision to the 37.03.09 to define the shared responsibility for well siting between owners and well contractors.

Aquifer Characteristics and Current rules . Mr. Rush presented a brief summary of confined and unconfined aquifers and non-flowing and flow artesian wells.

Driller Recommendations for *Areas of Geologic Conditions*. Mr. McCarty discussed a proposal for construction requirement for wells based on the geology of the well location. Professional drillers from across the state developed this recommendation as a possible approach to organizing well construction standards in a way that might level the playing field, ensure resource is protected through best practices and establishes rules that are tailored to regional conditions (rather than one-size-fits-all).

In the short time they had to develop the concept, the drillers identified three geological conditions that required specific construction needs.

1. Unconsolidated formation (Alluvial Sand and Gravel)
2. Consolidated formation (Shale, Granite Bedrock and Columbia River Basalt)
3. Semi-consolidated Bedrock, weathered bedrock, Basalt Scoria and Cinders

The group discussed the first two areas extensively, considering the drill and drive method in sands, in gravels, and in layered sand, clay, and gravel. A great deal of focus was given to drill and drive methods and sealing. The issue of using polyvinyl chloride (PVC) pipe in wells was also raised. Dennis Dunn identified that he was not against the use of PVC for well casing but cited several references about the strength of the material and need to support it properly to ensure proper construction. The technical nature of the concerns raised was identified as warranting further separate discussion.

Path Forward Discussion. Mr. Roger Buchanan, Andrew Well Drilling, suggested that the drillers did not have sufficient time to truly develop the concept for *areas of geologic condition* and suggested more time was needed to develop thoughtful recommendations. The group agreed and decided to postpone the discussion of seals until the September 13-14 meeting. This postponement would provide stakeholders additional time to consider sealing options and to revise proposals for various *Areas of Geologic Conditions*.

IDWR Enforcement. Participants from the drilling community challenged IDWR to put effort into responding to concerns about enforcement. Mr. David Tuthill stated that staff turn-over at IDWR has resulted in several vacancies that are going to be filled soon. When the position at IDWR that oversees this responsibility is filled, Mr. Tuthill committed to have the new person undertake an assessment of enforcement and present the results to the group as soon as possible based on filling the position and completing the assessment (possibly in September).

Ideal Well Illustrations. To support the concept of geologically-based construction standards, the groups was challenged to develop a set of drawings of how wells should be constructed and sealed in different geologic settings. The well drillers will solicit drawings from their community to aid further discussion in September.

Odds and Ends. The groups briefly discussed other issues in the rules such as geothermal wells and bonding. These items were deferred to later in the process (circa October)

Goals for Next Meeting: July 20, 2006

Discuss in detail the draft revisions to IDAPA 37.03.09. The draft will be revised to include well maintenance, development, pitless adapters. The draft will be paginated and line numbers assigned to facilitate discussion.

The specific sections that will be discussed are:

- Siting
- PVC Section
- Well Abandonment
- Disinfection – The drilling community requested an opportunity to discuss use of hydrogen peroxide as a disinfection agent.
- Well Development
- Screens and pumping sand
- Well Owner Responsibility
 - Siting and Installation
 - Maintenance
- Definitions
- Pitless – Mr. Brett McCarty to get input to Mr. Jim Rush
- Gravel pack – Mr. Ed Squires to have suggestions to Mr. Jim Rush